

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: :
CHARLES EDWARD MCCORKLE :
Debtor : CHAPTER 13
STEARNS BANK, N.A., : CASE NO. 13-75962
Movant : JUDGE MARY GRACE DIEHL
vs. :
CHARLES EDWARD MCCORKLE, Debtor :
W. KEIGH WEEKLEY, Co-Debtor and :
MARY IDA TOWNSON, Trustee :
Respondents :
:

AMENDED MOTION FOR RELIEF FROM THE AUTOMATIC STAY
FOR THE PURPOSE OF CRYING OUT FORECLOSURE AND
SUBSEQUENT VALIDATION OF FORECLOSURE
ON REAL PROPERTY

Comes now Stearns Bank, N.A., Movant in the above-styled action, and shows the Court as follows:

1.

Movant incorporates as if set out in its entirety the allegations contained in Paragraphs 1-13 of its original Motion as filed outlining the history of the Debtor through this Court.

2.

Pursuant to Court Order entered on or about December 4, 2013, after this Court considered Movant's Expedited Motion for Relief for the Purpose of Crying Out Foreclosure, Movant conducted a non-judicial foreclosure sale on the subject real property located at 4225 Snapfinger Woods Drive, Decatur, Georgia on December 3, 2013. There were no third-party

bidders and the property was “bid in” by the lender for \$200,000.00.

3.

There remains outstanding ad valorem taxes against the property in the approximate amount of \$4,768.08.

4.

The automatic stay should be lifted effective as of December 3, 2013, the date the Order was executed allowing advertising and cry out, and the foreclosure sale conducted by Movant should be deemed valid to the extent it is otherwise valid under Georgia law and the contract between the parties.

5.

When this Court ruled during a conference call allowing the cry out, Debtor’s counsel represented that such a remedy was “egregious” on this just the Debtor’s SIXTH Bankruptcy filing.

Debtor’s counsel also represented that the Debtor had a “Letter of Intent” to purchase the subject Property for \$395,000 (representing that there is/was equity above the Movant’s lien). No sale could ever be consummated for such an amount

A “Letter of Intent” (if existing) is not a closing and the undersigned suggests it is yet another effort to delay this Creditor and to defraud this Court.

This **FRAUDULENT** Debtor will not perform – yet again.

There is no equity. The above styled case is simply a “repeat” of the Debtor’s last case also filed on the eve of foreclosure to thwart this Creditors lawful remedy of non-judicial foreclosure.

6.

Should this Court rule against Movant on its request to validate, then Movant requests relief from the stay and co-debtor stay under 11 U.S.C. § 362 and §1301 to foreclose again on the subject real property.

7.

Movant prays that any Order granting this Motion be effective upon its entry, and not be stayed until the expiration of ten (10) days after its entry, in accordance with bankruptcy Rule 4001.

WHEREFORE, Movant seeks the same relief requested in the original Motion as filed, and respectfully prays that the automatic stay be lifted effective as of the date this case was filed, that the foreclosure sale conducted on December 3, 2013, be deemed valid, and that Movant be allowed to record its Deed Under Power and proceed with dispossessory, if necessary, and to the extent this Court denies validation, Movant requests immediate relief from the stay. Movant also prays that the Order granting the Motions be effective upon its entry, and not be stayed until the expiration of ten (10) days after its entry, in accordance with Bankruptcy Rule 4001, and requests a hearing concerning the issues set out herein.

Respectfully submitted,

MANN WOOLDRIDGE KNEIDEL, P.C.

By:/s/ *R. Brian Wooldridge*

R. Brian Wooldridge
Attorney for Movant
State Bar No. 775981

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vs. :

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W. KEIGH WEEKLEY, Co-Debtor and :
MARY IDA TOWNSON, Trustee :
:

Respondents :
:

NOTICE OF ASSIGNMENT OF HEARING

NOTICE IS HEREBY GIVEN THAT an Amended Motion for Relief from the Automatic Stay to Validate Foreclosure has been filed in the above-styled case. In the event a hearing cannot be held within thirty (30) days from the filing of the Motion for Relief from the Automatic Stay as required by 11 U.S.C. §362, Movant waives this requirement and agrees to the next earliest possible date, as evidenced by signature below. **The undersigned consents to the automatic stay (and any related co-debtor stay) remaining in effect with respect to Movant until the Court orders otherwise.**

HEARING will be held on the 12th day of February, 2014, at 2:00 p.m., in Courtroom 1201, U. S. Bankruptcy Court, 1340 Richard B. Russell Building, 75 Spring Street, S.W., Atlanta, Georgia.

Within three (3) days of the date of this notice, Movant's attorney, or a pro se Movant, shall serve the Motion and this notice upon the Debtor, Trustee, and their attorneys of record, and shall file a Certificate of Service within three (3) days of service. BLR 9007-2 NDGa.

DATED: December 20, 2013

/s/ R. Brian Wooldridge

R. Brian Wooldridge, Ga. Bar No. 775981
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CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the within and foregoing Amended Motion to Annul the Automatic Stay and Validate the Foreclosure Sale Or In the Alternative Relief From the Stay and Notice of Assignment of Hearing upon:

Charles Edward McCorkle
4225 Snapfinger Woods Drive
Decatur, GA 30035

W. Keith Weekley
22 Arlington Street
Dracut, MA 01826

Charles E. Taylor
778 Rays Road, Ste. 101
Stone Mountain, GA 30083

Mary Ida Townson
Standing Chapter 13 Trustee
191 Peachtree Street, NE, Suite 2200
Atlanta, GA 30303

by placing a copy of same in the United States Mail in properly addressed envelopes with adequate postage thereon to insure delivery.

This 20th day of December, 2013.

/s/ *R. Brian Wooldridge*
R. Brian Wooldridge
Attorney for Movant
State Bar No. 775981

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